

NATIONAL RECOVERY ADMINISTRATION

PROPOSED CODE OF FAIR COMPETITION
FOR THE
PERIODICAL PUBLISHING
INDUSTRY

AS SUBMITTED ON SEPTEMBER 6, 1933

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DOCUMENTS DEPT.

U.S. DEPOSITORY

The Code for the Periodical Publishing Industry
in its present form merely reflects the proposal of the above-mentioned
industry, and *none of the provisions contained therein are
to be regarded as having received the approval of
the National Recovery Administration
as applying to this industry*

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933

SUBMITTED BY
PERIODICAL PUBLISHERS INSTITUTE
(II)

CODE OF FAIR PRACTICES FOR THE PERIODICAL PUBLISHING INDUSTRY

DEFINITIONS

The "Institute" as referred to herein shall mean the Periodical Publishers Institute.

The term "periodical publishing industry" as used herein is defined to mean the publishers of periodicals (except daily and weekly newspapers) issued at regular intervals but not less frequently than four times per year and from which the publisher derives circulation and/or advertising revenue.

The term "publishers" as used herein shall include individuals, partnerships, associations, and corporations which actually issue periodical publications.

PURPOSE

To make effective the policy of Title I of the National Industrial Recovery Act during the period of the emergency, by reducing and relieving unemployment, by promoting the welfare of the industry, by eliminating competitive practices destructive of the interests of the public and of the industry, by improving the standards of employment, and otherwise rehabilitating the periodical publishing industry; and by increasing the consumption of industrial and agricultural products both directly and by increasing the purchasing power, and in other respects, the following provisions are established as a Code of Fair Practices for the Periodical Publishing Industry.

BYLAWS

The Institute has adopted articles of organization and bylaws, a copy of which is attached, marked "Appendix A."

The Institute will keep on file with the National Recovery Administration any changes in the Bylaws that may be made from time to time.

MEMBERSHIP

Membership within the Institute is open to any publisher who subscribes to this Code and to any subsequent modifications thereof or additions thereto and who accepts his share of the cost and responsibility as well as the benefits of its provisions.

CODE MODIFICATION

This Code, and any agreement made thereunder, or any license approved, prescribed, or connected therewith, is subject to cancellation

or modification by the President of the United States, in accordance with the provisions of Section 10 (b) of The Act; however, the publishers do not waive any constitutional rights or consent to the imposition of any requirements that might restrict or interfere with the constitutional guarantee of the freedom of the press. Subject to the approval of the President the Code may be amended by a majority vote of two thirds of the voting membership as defined in Section 6 of Article IV of the Articles of Organization and Bylaws.

I. EMPLOYMENT REGULATIONS

The periodical publishing industry, as required by Section 7 (a) of Title I, of the National Industrial Recovery Act, subscribes to the following provisions which are conditions of this Code:

"(1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor or their agents in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection;

"(2) That no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and

"(3) That employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President."

Employers likewise can make collective bargains with organized employees, or individual agreements with those who choose to act individually; provided, that no such collective or individual agreement is in violation of any state or Federal law. But neither employers or employees are required to agree to any particular contract, whether proposed as an individual or collective agreement.

Nothing in this Code is to prevent the selection, retention, and advancement of employees on the basis of their individual merit, without regard to their affiliation or nonaffiliation with any organization.

Publishers will not employ any person under sixteen years of age, except that male persons between fourteen and sixteen may be employed for not to exceed three hours per day and those hours between seven A.M. and seven P.M. in such work as will not interfere with hours of day school.

For the purposes of this Code sales persons working on a commission basis shall not be considered as employees.

A. WORKING HOURS

The personnel of the periodical publishing industry is made up of two divisions: (1) a creative group, consisting of editors, business executives, artists, and sales people; and (2) clerks, printing craftsmen, and laborers.

To effectuate the policy of this Code, maximum working hours shall be uniform over the whole country. Standard working hours shall be 40 hours per week; but editors, business executives, and sales people receiving not less than \$35.00 per week shall not be limited by this requirement. These standard working hours shall not apply to employees engaged in maintenance of plant and machinery.

It is not the intention of this provision to limit the number of days, hours per day, or shifts that any publisher may operate. In case of necessity, arising from an emergency or the character of the work, or from the inability to obtain competent labor, permission is granted to exceed the foregoing limitation, providing such permission shall be granted only upon the condition that no employee shall work more than 200 hours in any five weeks' period and not more than 48 hours in any pay-roll week; overtime shall be paid at not less than time and one third, to begin after eight hours in any one day.

B. WAGES

There shall be a standard minimum wage for employees in the periodical publishing industry that shall be uniform throughout the entire country. These wages shall be: for men, 40 cents per hour; for women engaged in manufacturing operations, 35 cents per hour; for women in other work and for junior male help between the ages of sixteen and twenty-one years, 32½ cents per hour, except that apprentices and learners without previous experience may be paid not less than 80 percent of the above schedule during the first three months of their employment.

It is agreed where the stated hours to be worked under this Code are less than those that were in effect on July 1, 1933, that employees being paid a wage in excess of the minimum and not at a rate over 75 cents an hour shall receive a fair upward adjustment of their wage over the rates in effect on July 1, 1933; and within four months after this date the Institute will collect information from its members relative to the actual effect of these adjustments and send same to the National Recovery Administration.

Where both men and women employees are engaged upon work of the same nature, it is agreed that there shall be no discrimination against women because of their sex.

II. TRADE PRACTICE RULES

To accomplish the purposes of the National Recovery Administration, the industry through this Code must restrain certain practices which have developed in the publishing field and which are harmful to the public, to publishers, and to advertisers. All harmful practices work to defeat the purposes of the Recovery Act.

A. RESPONSIBILITIES TO PURCHASERS OF THE PERIODICAL

1. Misleading or deceiving customers with respect to the service to be rendered by the publisher shall be a violation of this Code.

2. Editorial independence by each member of this Institute must be inviolate and any deviation shall be considered an infraction of this Code.

3. The industry shall establish definite regulations designed to prevent the publication of misleading and/or untruthful advertising and thus will protect the public. Disregarding these regulations shall be a violation of this Code.

B. RESPONSIBILITIES TO ADVERTISERS

1. *Circulation Practices.*—The circulation records of every publisher shall be open for inspection by advertisers or advertising

agents or by the United States Post Office Department and all reasonable auditable information which they request shall be furnished. Failure to comply with the requirements of this paragraph shall constitute a violation of this Code.

2. *Advertising Rates.*—It is a requirement of this Code that publishers must file with the Secretary of the Institute a complete schedule of all advertising rates. Failure to do so shall constitute a violation of this Code.

3. *Maintenance of Rates.*—It is understood that publishers shall make no deviation from their published rate schedules on file with the Secretary of the Institute either in the form of money or otherwise, or secretly extend to certain advertisers special privileges not extended to all advertisers under like terms or conditions. Where terms provide for time or space discounts and they are not actually earned, settlement must be made on short term basis. Any deviation shall constitute a violation of this Code.

4. *Records.*—Failure to maintain records or wilfully maintaining or issuing an inaccurate or false record of circulation or of advertising shall constitute a violation of this Code.

It will not be required that full circulation records be maintained by publications where the advertising content does not exceed 5 percent of the total space.

Where, however, the cost of fulfilling term and/or space agreements for advertising entered into prior to July 1, 1933, are unduly increased by the acceptance of this Code and the codes of allied industries under the National Industrial Recovery Act, it is equitable and promotive of the purposes of the Act that proper adjustments of such agreements be made by mutual consent between the parties thereto, or by arbitration, and the Executive Committee of the Institute will assist in effecting such adjustments.

5. *Defamation of Competitors.*—The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false statements or representations, or by false disparagement of the grade or quality of their product, with the purpose of misleading or deceiving purchasers or of injuriously affecting the business of such competitors, shall constitute a violation of this Code.

III. MAINTENANCE OF THE EFFECTIVENESS OF THE CODE

The Periodical Publishers Institute shall maintain an organization to investigate reported violations of the Code and to attempt to correct such violations by conference. Upon specific charges of violations of this Code and written notice thereof to the party accused, all relevant records of the publications involved shall be open for inspection to duly accredited representatives of the Executive Committee. If such methods are ineffective, the Institute will report such violations to the Attorney General of the United States for action as provided in Section 3 (c) of the National Industrial Recovery Act.

Upon request of the National Recovery Administration to the Periodical Publishers Institute, all records of individual members pertinent to maintaining and effectuating the policies of this Code shall be open to the inspection of representatives of the National Recovery Administration who are duly accredited.

APPENDIX A

ARTICLES OF ORGANIZATION AND BY-LAWS

ARTICLE I

SECTION 1. *Name*.—The name of this Institute shall be Periodical Publishers Institute.

SEC. 2. *Purposes*.—The purposes of the Institute shall be to establish and maintain such trade standards and practices as may be necessary for the general welfare of the industry in compliance with the requirements of the National Industrial Recovery Act. The Institute shall not be conducted for profit and shall have no transferable shares or memberships.

ARTICLE II—PLACE OF BUSINESS

SECTION 1. The principal office and place of business of the Institute shall be in the Borough of Manhattan, City of New York, State of New York.

ARTICLE III—MEMBERSHIP

SECTION 1. Membership in this Institute shall consist of individuals, partnerships, associations, or corporations which actually issue periodical publications (except daily and weekly newspapers) at regular intervals but not less frequently than four times per year who subscribe to the Code of the Periodical Publishers Institute and to any subsequent modifications thereof or additions thereto; who accept a proper share of the costs and responsibilities as well as the benefits of its provisions; and who subscribe to these Articles of Organization and By-Laws.

Membership shall include all periodicals published by the member from which the member derives circulation and/or advertising revenue.

The field of periodical publications is naturally divided into four general groups, as follows:

- (1) agricultural publications,
- (2) business publications,
- (3) general publications,
- (4) religious, fraternal, scientific, educational, and other publications.

Each publisher may determine to which group or groups his publication or publications belong. When such designation is once chosen by a publisher, it can be changed only upon approval by the Board of Directors.

SEC. 2. *Withdrawal of Membership*.—Any member may withdraw his membership by filing with the Secretary of the Institute his resignation and paying all past dues and allocation of expenses.

SEC. 3. Membership in the Institute shall not terminate or prohibit membership in any other association now existing or hereafter formed between members of the Institute or any of them, or debar any Director, Officer, or employee of the Institute being at the same time a Director, Officer or employee of one or more such firms or associations.

SEC. 4. The Institute shall publish as often as directed by the Board of Directors a complete list of members in good standing.

ARTICLE IV—MEETING OF MEMBERS

SECTION 1. *Annual Meetings*.—There shall be an annual meeting of the members of the Institute at such place and time as shall be designated by the Board of Directors. Notice of such meeting shall be sent to all members as herein provided.

SEC. 2. *Special Meetings*.—Special meetings shall be called by the Executive Committee upon the order of the Board of Directors or whenever a request in writing therefor shall be received by the Secretary bearing the signature of

at least twenty-five members. No business shall be transacted at a special meeting except as may be embraced in the call therefor.

SEC. 3. Notice of Meeting.—The Secretary shall give notice of all meetings by mailing to each member a written or printed notice stating the time and place of meeting, and if a special meeting, the business to be transacted. Such notices shall be mailed not less than twenty days before annual meetings and mailed or telegraphed not less than five days before special meetings.

SEC. 4. Quorum.—To constitute a quorum for the transaction of business there must be present and voting representatives or proxies of at least twenty-five percent of the voting membership as provided in Section 6.

SEC. 5. Proxies.—A member may be represented at meetings by a properly authorized proxy qualified as provided in the next section, who shall file a lawful power of attorney with the Secretary showing what member or members he is empowered to represent.

SEC. 6. Vote and Representation.—Each publisher paying dues and/or allocation of expenses of the Institute may be represented in person or by proxy and is entitled to a minimum of one vote for each publication published by such member. Additional votes will be allotted to each publication published by such member based on one vote for each \$100,000.00 of the combined gross income from circulation and advertising of each such publication for the previous calendar year.

For the purposes of these by-laws "circulation income" shall be determined by multiplying the subscription price of member's publication by the paid circulation, including news-stand sales of such publication, as the same may be stated by the member to the Finance Committee.

For the purposes of these by-laws the "advertising income" of each member shall be considered to be the gross annual receipts from the sale of advertising space in his publication for which membership shall be held in the Institute, without any deductions whatsoever.

ARTICLE V—BOARD OF DIRECTORS

SECTION 1. How Constituted.—The affairs of the Institute shall be managed by a Board of Directors consisting of twenty-three members, which shall be elected at the first meeting of the Institute and serve for a period of one year, or until their successors are duly elected.

SEC. 2. Method of Election of Board of Directors.—Each of the groups as defined in Article III, consisting of not less than ten members, shall be entitled to name three members of the Board of Directors. The remaining members of the Board shall be elected at large. The votes within each group and at large shall be as allocated in Section 6 of Article IV; provided no publishing house can be represented by more than one member on the Board of Directors.

SEC. 3. Powers of the Board.—At the first meeting of the Board of Directors they shall elect from their body a Chairman, Vice Chairman, Secretary, and Treasurer of the Institute. The Board of Directors shall have power to enforce the collection of dues and allocation of expenses and the policies of the Institute; to employ and fix the compensation of all agents and employees; to fill vacancies among the Officers or the Directorate; and in general to do all things necessary to carry on the work of the Institute not expressly reserved to the membership itself.

SEC. 4. Meetings of the Board.—Meetings of the Board of Directors may be called at any time by the Chairman or on written request by any five members of the Board.

Notice of the time and place of all meetings of the Board shall be telegraphed or mailed to the members thereof not less than five days in advance of such meeting.

SEC. 5. Quorum.—At all meetings of the Board of Directors seven members shall constitute a quorum for the transaction of business. Except as provided by these articles of organization and bylaws, action by the Board shall be determined by a majority vote of the members present.

SEC. 6. Executive Committee and Duties.—An Executive Committee shall be chosen by the Board of Directors, consisting of seven of its members, one of whom shall be chosen from each of the divisions as and if elected under Section 2, Article V, the remaining members shall be chosen by a majority vote of the entire Board of Directors.

The Executive Committee shall be charged with the specific administration of the Code of Fair Practices of the industry, cooperating with the Federal Administrator of the National Industrial Recovery Act in securing adherence to the Code. This committee shall hear and adjust complaints and consider proposals for amendments or exceptions to the Code.

SEC. 7. *Finance Committee and Duties.*—The Board of Directors shall appoint a Finance Committee of three, to consist of the Treasurer and two other members chosen from the membership of the Board. It shall be the duty of the Finance Committee to prepare a quarterly budget; to compute the necessary and equitable amount of allocation of expenses for each publication published by such member, submitting same to the Board of Directors for approval, and take steps to collect same; to audit all bills of the Institute and supervise all its accounts, and to present through the Treasurer an annual financial report and any special reports that may be required of it by the Board of Directors.

ARTICLE VI—DUTIES OF OFFICERS

SECTION V. *Duties of Chairman.*—The Chairman shall preside over all meetings of the members and of the Board of Directors at which he may be present and shall exercise general supervision and control over the activities of the Institute.

SEC. 2. *Duties of Vice Chairman.*—It shall be the duty of the Vice Chairman in the absence or inability of the Chairman to act, to exercise all his powers and discharge all his duties. In the absence of both the Chairman and Vice Chairman the meeting shall elect a temporary chairman.

SEC. 3. *Duties of Treasurer.*—The Treasurer shall receive all moneys of the Institute, safely keep the same in such bank as designated by the Finance Committee, and pay out such sums as may be authorized by the Directors in the manner and under such conditions as they may prescribe. He shall keep an account of all transactions of his office and make quarterly statements to the Board of Directors and an annual report of the same to the Institute at the annual meeting. The Treasurer shall be Chairman of the Finance Committee. The Treasurer shall furnish suitable bond as required by the Board of Directors.

SEC. 4. *Duties of Secretary.*—The Secretary shall keep a true record of all proceedings of the Board of Directors. He shall have charge of all papers of the Institute other than such as properly belong to the Treasurer.

SEC. 5. *Checks.*—All checks, drafts, notes, or orders for the payment of money shall be signed by those designated by the Board of Directors.

ARTICLE VII—DUES AND ALLOCATION OF EXPENSES

SECTION 1. *Dues.*—Dues for each publication published by a member shall be \$10.00 per year payable annually in advance.

SEC. 2. *Allocation of Expenses.*—Each publication published by a member shall pay, within thirty days after receipt of bills, any allocation of expenses as may be approved by the Board of Directors for the purpose of raising the necessary funds for carrying on the work of the Institute.

Such allocation shall not apply to publications having less than \$100,000.00 gross annual income from circulation and advertising for the previous calendar year.

Such allocation shall be based upon a uniform percentage of the combined gross annual income from circulation and advertising for the previous calendar year as defined in Section 6, Article IV, for each publication published by a member, but shall be limited to a maximum of one twentieth of 1 percent of such gross business during any one year.

ARTICLE VIII—AMENDMENTS TO BYLAWS

SECTION 1. *How Amended.*—These bylaws may be amended by the Board of Directors at any regular meeting of said board or at a special meeting called for such purpose, but no amendment shall become operative or take effect until the same shall have been recommended or ratified by a majority vote of the members as defined in Section 6 of Article IV, by consent in writing filed with the Secretary of the Institute or by affirmative vote cast at any meeting of

the members regularly convened, nor unless a copy of such amendment shall have been mailed to each member with the request for a consent thereto or ratification thereof or with the notice of meeting at which the same is to be considered, and in the latter case such mailing shall be at least thirty days in advance of the date of meetings. In the event that the amendment shall be consented to in writing by a majority of the members, then upon the filing with the Secretary of such consents the Secretary shall send to each member a notice of the adoption of the amendment.

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